IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 7TH MARCH 2007 / 16TH PHALGUNA 1928

WP(C).No. 10376 of 2005(I)

PETITIONER:

**TRIVANDRUM CLUB, VAZHUTHACAUD,
THIRUVANANTHAPURAM, REPRESENTED BY ITS
HONOURARY SECRETARY, SRI.N.O. KURUVILA.**

**BY ADV. SRI.S.SREEKUMAR,
SRI.D.SAJEEV.**

RESPONDENTS:
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1. **THE DEPUTY CHIEF ENGINEER,
APTS (HQ), VIGILANCE WING, 4TH FLOOR,
VYDHYUTHI BHAVANAM, PATTOM, THIRUVANANTHAPURAM.**

2. **KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY, VYDHYUTHI BHAVANAM,
PATTOM, THIRUVANANTHAPURAM.**

3. **THE ASST.EXECUTIVE ENGINEER,
ELECTRICAL MAJOR SECTION, KERALA STATE ELECTRICITY
BOARD, VELLAYAMBALAM, THIRUVANANTHAPURAM.**

BY ADV.SRI.C.K.KARUNAKARAN, SC FOR KSEB.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 07/03/2007,THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P.(C). NO.10376/2005:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE ORDER NO. DB8/GL/PC/95-96 FIXING THE MONTHLY QUOTA IN RESPECT OF CONSUMER NO.2.

EXT.P.1.A: COPY OF THE ORDER FIXING THE MONTHLY QUOTA IN RESPECT OF CONSUMER NO. 2481.

EXT.P.1.B: COPY OF THE ORDER FIXING THE MONTHLY QUOTA IN RESPECT OF CONSUMER NO. 7057.

EXT.P.2: COPY OF THE NOTICE NO. B-5/97-98 DTD. 31/05/1997 IN RESPECT OF CONSUMER NO.2.

EXT.P.2.A: COPY OF THE NOTICE NO. B-5/97-98 DTD. 31/05/97 IN RESPECT OF CONSUMER NO. 2481.

EXT.P.2.B:C OP, NOTICE NO. B-5/97-98 DT. 31/05/1997 IN RESPECT OF CONSUMER NO. 7057.

EXT.P.3: COPY OF THE MEMORANDUM OF APPEAL DTD. 25/11/2004 FILED IN RESPECT OF CONSUMER NO. 2.

EXT.P.4: COPY OF THE MEMORANDUM OF APPEAL DTD. 25/11/2004 FILED IN RESPECT OF CONSUMER NO. 2481.

EXT.P.5: COPY OF THE MEMORANDUM OF APPEAL DTD. 25/11/2004 FILED IN RESPECT OF CONSUMER NO. 7057.

EXT.P.6: COPY OF THE PROCEEDINGS OF THE R.1. DT. 16/03/05.

EXT.P.7: COPY OF THE ORDER DTD. 26/08/04 OF THE R.1.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR, J.

W.P.(C).No.10376 of 2005-I

Dated this the 7th day of March, 2007

JUDGMENT

The petitioner is aggrieved by Ext.P1 series of bills and Ext.P2 series notices. It has preferred Exts.P3, P4 and P5 appeals before the first respondent. Those appeals were dismissed by Ext.P6 order. This writ petition is filed challenging Ext.P6 and also seeking consequential reliefs. The petitioner prays for reconsideration of its appeals in the light of the judgment of this court in W.A.1231 of 2003 and connected cases.

2. The petitioner has another grievance regarding interest payable by it. Initially the disputed bills and demands were challenged before this court by filing O.P.10313 of 1997. This court granted unconditional stay. Later, the O.P. was finally disposed of on 3-8-2004 directing the petitioner to invoke the appellate remedy and also granted recovery of the amounts due under the disputed bills on payment of one-third of the amount. In the appellate order Ext.P6, waiver of interest has been granted for the period the appeal was pending before the appellate authority. The petitioner claims for the said relief when the writ petition was pending before this court also.

3. Heard the learned Standing Counsel for the respondents. The

learned counsel agrees for reconsideration of the appeal in the light of the aforementioned writ appeal judgment; but opposes the prayer for waiver of interest for the period the writ petition was pending before this court.

4. The point raised by the petitioner regarding payment of interest is covered against it by the decision of this Court in K.S.E.B. Vs. M.R.F.Ltd. (1996 (7) SCC 567). Therefore, the waiver of interest for the period this writ petition was pending before this court cannot be granted. But, the first respondent is directed to re-hear Exts.P3, P4 and P5 appeals in the light of the afore-mentioned writ appeal judgment, in accordance with law, after affording an opportunity of being heard to the petitioner within two months from the date of production of a copy of this judgment. Recovery of further amounts from the petitioner under the impugned bills will remain in abeyance for a period of four months from today or till the appeals are re-heard and disposed of. If the demand is reduced the amount paid by the petitioner shall be first adjusted towards interest and the balance, if any, towards principal amount. Following this principle the revised bills shall be issued to the petitioner.

K.BALAKRISHNAN NAIR, JUDGE.

MS